

THE

DESIGN AND ADVANTAGES

OF THE

HOUSE OF REFUGE.

“I speak as unto wise men, judge ye what I say.”

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HOUSE OF REFUGE.

A **VERY** slight acquaintance with the state of society, especially in large cities, must satisfy any man that a vast number of the children and youth are entirely neglected.

A distinguished gentleman of this state, long connected with the administration of the criminal law, in allusion to this subject, says:—

“ Vicious propensities are imbibed at a very early age by children, in the crowded population of a city. Parents, whose extreme poverty, casual calamity, or moral turpitude, induces a neglect of their offspring, expose them at once to be caught up by the profligate and knavish, to be made unsuspecting agents in the commission of offences, and to be trained into habits of idleness, cunning, and predatory vagrancy. A boy, nine, ten or twelve years old, cannot range uncontrolled through the streets for a week, without forming dangerous associations, or without being entrapped by some veteran rogue, who, conscious of his own notoriety, eagerly enlists, with affected kindness or exaggerated menace, an unknown instrument for his purposes. Children, too, accomplish petty thefts with ease, and with frequent impunity: they pass unnoticed by the busy, or, if detected, are treated with indulgence. Success gradually emboldens; they become proud of their skill, form combinations among themselves, and grow ambitious to surpass each other in their daily contributions to the hoard of a common guide and pretended protector.”

It being obvious that a large class of persons of this character exists among us, humanity and public safety, are interested in the inquiry,

What shall be done with them, or for them?

I. Shall they be permitted to pursue their present course until it ends in the commission of some flagrant crime—to be followed

by a public prosecution, expensive to society and disastrous—fatally disastrous—to the future character of the subject of it? Surely such a principle can find few advocates. Immunity from criminal accountability up to a fixed period of life, and a consequent freedom from restraint and punishment until that period arrive, would be repugnant to every dictate of social prudence and justice. What means then shall be employed for their restraint and reformation?

II. Are the common prisons of the country suitable for this purpose? To seize upon the first dawn of the faculty of discerning between right and wrong, when childhood is manifest in the language, the deportment, and in the very person of the culprit, and subject the offending child to the same punishment, and condemn him to the same association, with the ripe and hardened offender, has in it something so revolting to humanity that the spectacle never fails to enlist the feelings against the law; and judges and juries are often tempted to strain their consciences in order to produce an acquittal. Either alternative is dangerous to the future welfare of the unfortunate accused. If by the irresistible impulse of humanity, he is restored to liberty, he returns to his former haunts and habits, emboldened by the impunity. If he be condemned, disgrace and infamy attend him.

“If such delinquents are liable to be treated, when pursued, in the same manner as older and hardened ones, it is almost impossible to arrest their progress in depravity and mischief. Most men shrink, with repugnance, from harshness to youth. The prospect of making them convicted felons is repulsive; and thousands have been permitted to continue unmolested, in preference to hurrying them to the Penitentiary. Thus our most natural sensibilities become panders to public wrong, and contribute to keep up the juvenile gangs so necessary to the schemes of old culprits.”

The Chief Justice of a sister State holds this language:—

“These unhappy little victims of neglect, or shameful abuse of authority, are hardly proper subjects of punishment—their offences are not their own—they have never been taught the laws of God or man, or if they have, it has been only that they may despise them.

“If any punishment should be inflicted, the rod of the master

would be more suitable than the prison, where their bodies and minds will be equally cramped, and become incapable of any change but that of distortion and disease. What more terrible than to immure, in the physically and morally foul apartments of a jail, a child of eight or ten years of age, without means of instruction or information, and then to turn him into the world with an atmosphere about him, which will repel every thing fitted to purify his body or his soul! Is it not certain that such an outcast will return to his wallowing, and accumulate filth and crime, till he has become fit for the State Prison or the gallows?

“How deeply does it concern the community, to take these little creatures by the hand, when they shall have committed the first offence—withdraw them from contamination and guilt—provide the means of industry and education—soften their minds to the reception of moral and religious truth—and gradually, by gentle treatment and wholesome discipline, lure them into habits of order, truth, and honesty. Is there any greater duty in a christian country than this? Is it not plucking brands from the burning, and saving souls from death? Is it not the cheapest and the best way of preserving the peace and tranquility of the community, and guarding the fruits of industry?”

If of a hundred vagrant boys and girls, thrown into the streets of a city to beg and steal, one-half the number shall be taught to abhor the ways of sin, and become honest, industrious, useful citizens, is not more good done than if, after a long course of profligacy and crime, they should all come to ruin? Surely the public must be alive to this subject—and it is matter of astonishment, that until within a few years, no measures have been taken to look into this great affair, and adopt some plan which shall lessen, if not cure the enormous evil of punishing juvenile offenders, without any prospect of reforming them.

About the time of the establishment of the House of Refuge the increase of juvenile delinquency from various causes had become very alarming. The result of an investigation, at that time, (13th Nov. 1828,) was, that there were then in prison in the city of Philadelphia sixty boys—thirty-nine of whom were white and the residue black; and we have official authority for the

fact that in the city of New York before the establishment of the House of Refuge—of the persons brought before the police magistrates in one year, 480 were under 25 years of age! and a very considerable number of both sexes between nine and sixteen, most of them were children who were wandering about without home, and with no one to care for their souls or bodies.

The repugnance to prosecuting children, even when they are detected in offence, and the inclination of courts and juries to acquit them, out of compassion for their tender years, rather than consign them to the discipline of a prison, left many at large to pursue their course of iniquity. The aggregate cannot be conjectured. It includes a great variety. Among the thirty-nine white boys named in the list above mentioned, there were eleven who were styled by the keeper “good boys,” from which we may understand that there was nothing in their disposition or habits decidedly vicious. With care and instruction they would probably have been reclaimed, and become useful members of society. But what were their condition and prospects? Branded with the infamy of a public trial, conviction and sentence—lost to the feeling of shame—turned loose upon the world—cut off from intercourse with the honest part of the community—without counsel, aid, or instruction, they are forced into the society of the vicious, and driven to crime for a subsistence. They are irretrievably lost, when they might have been saved. Rejected by society, excluded from honest occupation, with the world in hostility against them, they naturally become enemies of the world, and grow into the most desperate offenders.

An intelligent magistrate of England, upon actual observation, made in the course of a long experience, says that early imprisonment, is the great and primary cause from which crime originates. From this source most of the evils flow which affect the youthful offender, and at the earliest age lead him into those paths of vice, from which afterwards there is no escape; from which the light of hope is almost excluded, and where the tears of repentance are generally disregarded.

And another administrator of criminal law, of distinguished character, and long experience, says—in attesting the benign influence of the House of Refuge,—

“I find no difficulty now in checking the young offenders. Before the establishment of the House of Refuge, a lad of fourteen or fifteen years of age, might have been arrested and tried four or five times for petty thefts, and it was hardly ever that a jury would convict. They would rather that the culprit acknowledged to be guilty, should be discharged altogether, than be confined in the prisons of the state or county.

“This disposition, so frequently exercised by magistrates and jurors, rendered the lad more bold in guilt; and I have known instances of lads now in the House of Refuge, being indicted half a dozen times, and as often discharged to renew their crimes, and with the conviction that they might steal with impunity.

“The consideration, however, that there is a charity which provides for objects of this character, has removed all objections to convictions in cases of guilt.

“Formerly, too many citizens were reluctant in bringing to the police-office, young persons who were detected in the commission of crimes. This operated as an encouragement to depraved parents, to send very young children to depredate on the community,—if detected, they knew that no punishment would follow. This is one cause why the arrest of offenders of this class had become so rare. I might enlarge on the benefits of this noble charity, were it necessary. Of this I am certain, that no institution has ever been formed in this country by benevolent men, more useful and beneficent.”

If the question lies between a jail and such an institution as the House of Refuge, it should be remembered that those who begin their days in a jail, most commonly become a burthen for life, subsisted by the public while in, and by plunder when out; whereas the Refuge, working a reform, enables them to support themselves, and to contribute something to the general expenses of society; that the one enlarges the sources of crime, and swells the streams that flow from it, and the other seeks to diminish the fountain of iniquity, and dry up its noxious issues. Who will not be convinced that a just economy walks hand in hand with charity and policy?

If it be wise, says a distinguished writer on criminal jurisprudence, to prevent a hundred atrocious crimes, by removing the

opprobrium of a venial fault and substituting instruction for punishment; if it is the highest species of humanity to relieve from the miseries of vice and the degradation of crime; to extend the operation of charity to the mind; and snatch, with its angel arm, innocence from seduction: if it be a saving to society to support a child for a few years at school, and thereby avoid the charge of the degradations of a felon, for the rest of his life, and the expense of his future conviction and confinement; then is this school of Reform, a wise, humane, and economical institution.

If the House of Refuge were to be considered merely as a place where so many children may be rescued from poverty, reclaimed from the haunts of vice and wickedness, protected, instructed, and reformed, it would be a charity having the highest claims to the liberality and bounty of government. But when viewed as a means by which the perpetration of crimes will be prevented, and the increased number of criminals, which, without it, would be chargeable to the State, it is believed, that a regard to economy alone would require the support of this institution. There is hardly a child who will be sent to it, who, if left to the course which brings him to the House of Refuge, would not finally be supported by the State as a convict. The evidence of this is, that a very large proportion, who are now confined in our State prisons, commenced their career in crime, when they were children, in our large cities. One person in particular, who was lately confined in the prison in Auburn, was first convicted when he was only ten years old, and has since been, at different times, twenty-eight years a convict, supported by the State of New York, at an expense of not less than two thousand dollars.

The common prisons of our country, then, are obviously unsuitable places for juvenile delinquents. We do not forget the great improvements which have taken place in our prison discipline, and of which our state may honestly and honourably boast. We are aware that the most appalling evils which attended our prison system are remedied in the new construction and arrangement of our prisons; but still there is the public trial, the recorded conviction, and the irrevocable sentence. And after all, who would take a child of tender years and doom him to

the silence and solitude of a prison—when a fair estimate of the guilt of all concerned will show him probably “rather sinned against than sinning?” Besides, he could have no schooling there—he could have no recreation there—the freedom of motion, which his expanding nature asks, is denied him there, and he suffers a punishment sadly disproportioned to the turpitude of his guilt.

III. Shall they be placed under the care of the guardians of the poor? Besides the fact that many of them are not proper subjects of public charity, the guardians of the poor themselves have declared that such an institution as the House of Refuge is greatly wanted; that it relieves them from the burden of the worst part of a class of paupers, whom, under present circumstances, they are unable to regulate in such a manner as would be consistent with habits of industry, and that moral and religious instruction, which all children ought to receive.

It is obvious, then, that the institution we want is neither a prison nor an alms-house—but an **ASYLUM**—a school of discipline and instruction, or (for there is no word more expressive of the thing to be signified)—a **REFUGE**.

IV. What then is the design of such an institution? The design of the House of Refuge is to furnish an asylum, in which boys under a certain age, who become subject to the notice of the Police, either as vagrants or houseless, or charged with petty crimes, may be received, put to work at such employments as will tend to encourage industry and ingenuity, taught reading, writing, and arithmetic, and most carefully instructed in the nature of their moral and religious obligations, while at the same time, they are subject to a course of treatment, that will afford a prompt and energetic corrective of their vicious propensities and hold out every possible inducement to reformation and good conduct.

The Refuge is not a place of punishment; it is not a provision simply, nor even principally, for the security of society against offence, by the confinement of culprits, nor for inflicting the vengeance of society upon offenders as a terror to those who may be inclined to do evil. It presents no vindictive or reproachful aspect; it threatens no humiliating recollections of the

past; it holds out no degrading denunciations for the future—but, in the accents of kindness and compassion, invites the children of poverty and ignorance, whose wandering and unguided steps are leading them to swift destruction, to come to a home where they will be sheltered from temptation, and led into the ways of usefulness and virtue.

It is to be looked upon as a school for reformation, not a place of punishment. An Asylum for poverty and helplessness and ignorance, not a prison for malefactors. Its directors are the friends and instructors of its inmates. Instead of being outcasts from society, with scarcely a possibility of return, they are withdrawn only for a season, in the trust that by a course of right but not cruel or ignominious discipline, they may be prepared to partake of its enjoyments and even to hope for its rewards. In the mean time the restraint imposed, merely interdicts a fellowship with the vicious, which could not fail to be disastrous, and substitutes one of a beneficial character.

It imposes restraint, for restraint is necessary no less for the good of the subject, than for the security of society.

Idleness being the prolific parent of vice, the House of Refuge is designed to be a place of never ceasing occupation, to every inhabitant. It is not contemplated that every moment shall be devoted to arduous and painful labour; or even that recreation and amusement shall be denied. These are the natural and innocent, and often the laudable desire of the young. In the intervals between labour and rest, they are recurred to as subservient to the work of reformation and instruction. They are relied on, to afford relaxation from past, and zest to future employment. Recreation is regarded as part of the business of the institution; and in its introduction is as remote from idleness as from extreme labour. It is encouraged at stated periods—for a short time—under the eye of a superintendent—and is of such a character as to exercise and invigorate the body, while it diverts the mind.

Whether accomplished or not, this is the design. And truly the whole community is deeply interested in its accomplishment. It has for its object, and promises to realize in its results, employment of the idle;—instruction of the ignorant;—reformation

of the depraved;—relief of the wretched;—a general diffusion of good morals;—enlargement of virtuous society;—and the universal protection of property and life.

“ The establishment of an asylum for juvenile delinquents,” says the late Recorder of the city of Philadelphia, in a charge to the Grand Jury, “ is an event at which, as guardians of the laws, we may heartily rejoice. The pain attendant on the performance of our duty, will, in future, be alleviated by the reflection that the sentence of the law removes the unpractised convict from the influence of evil example, to an asylum, where lessons of industry, virtue, and religion, will be taught. It has been founded to rescue the unwary from temptation and evil example, and, from the too easy paths of iniquity and crime. For its support, as identified with the salutary administration of justice, I earnestly solicit your co-operation.”

Some have supposed the restraints imposed in this establishment, were inconsistent with the liberty of the citizen, and especially with that clause of the Constitution, which secures to every one a trial by jury. To the candour of such, the following remarks, directed more particularly to this point, are respectfully submitted:—

The House of Refuge is intended to obviate not merely the sentence of infamy and pain, which follows a trial and conviction, but to prevent the trial and conviction itself. If a trial is to take place, the legitimate form is by jury. No substitute can be adopted, which our republican institutions would tolerate. By no other means can guilt be satisfactorily ascertained. But the inquiry which precedes admission here, is not necessarily into the guilt or innocence of the subject, with a view to punishment. Such inquiry may be made; and the law provides for the reception of children, who have been thus exposed to it, in the regular and accustomed form. Conviction is one of the circumstances which will justify admission here; and there is no other mode in which conviction can take place except by jury. One class of subjects, therefore, is formed by those who have been regularly tried and condemned. A much larger class happily find a shelter here; where the inquiry has been directed mainly to the criminal tendency and manifestations of their con-

dition, to their means of support, to the protection and guidance they receive from their natural friends. If adequate securities against guilt are wanting, and they must in all probability become criminal as well as wretched, they are entitled to a place within these walls, even though they may not have committed specific crimes. The imputation of a crime is not a necessary passport to admission. If it has been committed, it furnishes strong evidence of the absence and necessity of proper guardianship; since it would not have taken place, if neither necessity, nor bad example, had been the inducement. But it is only in this respect that the crime is adverted to. A child is not the less wretched because guilty. Its wretchedness alone gives it a just title to reception. The addition of criminality does not take away its claims. Almost every child that steals is a vagrant as well as a thief; for theft is the result of a want of honest occupation and support; and a want of honest means of subsistence is vagrancy. When a commitment, therefore, is made by a magistrate, it is not simply nor even necessarily because of a crime, but because of want and bereavement, of which crime is both the proof and the consequence. It would be equally cruel and unnecessary to subject to trial and conviction, and thus to lasting infamy, when the requisitions of the law are fulfilled without them, and the child is instructed, cherished, saved, without exposing it to the melancholy satisfaction of knowing, that there are two motives for its restraint when one is sufficient.

Let the law be read, and it will appear, that punishment is not named. The system is introduced for the purpose of preventing punishment. It humanely ascribes the errors of early youth, to the unconscious imitation of evil examples, to accident, to the disregard of parents, to any thing rather than moral guilt. It, therefore, treats them as deficiencies of education, and provides means by which those deficiencies may be supplied. If the parent or the natural friend will show that there are no such deficiencies, or that proofs are wanting to substantiate them, the discipline of the House is at once withheld for other objects.

Whoever will investigate the actual course of instruction and discipline at the House, must be convinced that wholesome re-

straint does not necessarily imply that there has been crime; *that infamy is not the consequence of a residence here*; that the leading object is to avoid disgrace, by cherishing a laudable pride in those who may become inmates; that punishment (except for offences committed in the institution, and with a view to preserve its discipline) is not mentioned in the law or contemplated by the plan. In a word, that the whole system is the reverse of that which prevails in prisons—the object being to prevent contamination and infamy, to prevent crime, to inform the ignorant, to support the friendless and forsaken, and to qualify all to maintain themselves by virtuous industry, and to enter the world with a knowledge of what is right, and a capacity to pursue the paths of rectitude.

It should be borne in mind that the managers themselves have no authority to send a subject to the House of Refuge. They merely receive those who are committed to them by the proper authorities; they are indeed a BOARD OF GUARDIANS, composed of thirty-one gentlemen, five of whom are appointed by the public authorities, and the residue by private contributors. —When a youth is brought to the House they consider him as committed to their guardianship and in every subsequent measure that is adopted for his discipline and instruction, this same principle of guardianship or parental oversight is a paramount feature. If by any modification of the institution a public prosecution with all the formalities of complaint, indictment and trial becomes necessary in order to place a subject under their care; a multitude of parents will see their children pursue a course of crime to the end rather than become prosecutors of their own offspring, and contributors to their early and indelible disgrace.

V. Does the House of Refuge accomplish the end proposed? The late De Witt Clinton expressed the opinion in one of his messages to the Legislature of New York, that the House of Refuge was the best institution of the kind that has ever been devised by the wit, or established by the beneficence of man. “It takes cognizance of vice in its embryo state, and redeems from ruin and sends forth for usefulness, those depraved and unfortunate youth, who are sometimes in a derelict state, sometimes without

subsistence, and at all times without friends to guide them in the paths of virtue. The tendency of this noble charity is preventive as well as remedial; its salutary power has been felt and acknowledged in the haunts of vice and the diminution of our criminal proceedings."

Evil communication and example are the attendants of confinement in prison, and their effects are to corrupt the thoughtless, and harden the ill-disposed; to render all who are so unfortunate as to be subject to them, infamous and wretched. This establishment affords no means of indulgence in vicious habits or conversation, and can occasion no loss of virtuous feelings, and that honest pride which is essential to good conduct. The term *punishment* is unknown, except in the necessary correction of idleness or disorder within the house. *All former errors are forgiven.* A new course of life is adopted, and as the *disgrace of trial and conviction* has not preceded admission, the pain of punishment does not follow it. Education, employment, and instruction in some useful trade; constant association with men of character and purity; frequent exercise in religious duty; rational amusement; the use of books calculated to gratify youthful taste, such as travels, voyages, history, fables, and other well written works; cleanliness in dress and person; the absence of falsehood and profanity: these are the chief objects and occupation to which the young inmates are destined. Let them be compared with the corresponding incidents of a jail, and it will be easy to perceive the difference in substance as well as name, between the one establishment and the other.

An eminent Jurist, whose opinion on such a subject is certainly entitled to great regard, says—

“The House of Refuge is the most efficacious remedy as yet devised for these disorders. It rescues children from the otherwise inevitable results of early abandonment and their own inherent weakness; and by the same process, it deprives the veteran in iniquity of the tools of his trade. Our citizens no longer hesitate in seizing the juvenile offender, knowing and feeling that by so doing, they in effect snatch the brand from the burning, to place it where it may be safely tempered and refined. The

magistracy, too, experience inconceivable relief, by being empowered to reconcile the necessities of social order and the precautions of the understanding, with the best impulses of the heart.

“ Your institution is as yet newly established. I cannot, however, avoid expressing the opinion that much good is even now discernible. A portion of these effects may be accidental and temporary; but I know also a large portion of them to be caused directly by the House of Refuge, and they are undoubtedly its just and legitimate consequences. When aware, indeed, from repeated observation, how essential in the perpetration of crime, is the machinery of juvenile agents—how dependent the branded veterans are upon their unscathed pupils and puppets, I cannot easily exaggerate the remedial operation of your society.”

Grand Juries have repeatedly recommended it as an Institution deserving of every support, and express the hope that it will receive from time to time, as its usefulness becomes developed, all that assistance from an enlightened Legislature and intelligent Public, its exigencies may demand.

And on one occasion they say—“ The admirable system throughout, the attention to personal cleanliness, the moral and religious care bestowed on the unfortunate inmates, the promoting of industrious and studious habits, and the teaching of those branches of education most useful, cannot but lead to the happiest results, and they cherish the hope, that many, who, but for this establishment, would be lost, will not only be restored to society, and become useful members thereof, but what is of much more importance, will secure their eternal welfare.”

The Chief Justice of this State, in calling the attention of the Grand Jury to the House of Refuge, says:—

The principal design is, to provide a place of confinement for *juvenile offenders*, where, separated from the society of common felons, they may be subjected to a course of treatment calculated to bring them all back to the paths of industry and virtue: the want of which is acknowledged by every one conversant with the transactions of our criminal courts. No part of our duty is attended with more distressing considerations, than the sentencing of this class of offenders. *Vengeance* is not the object of the law. *To reform, and deter, are exclusively the legitimate*

purposes of every criminal code; and when neither of these is to be accomplished, the infliction of punishment produces nothing but a useless addition to the sum of human suffering.

And the Grand Jury in a full presentment on the subject, referring to the sentiments of the Chief Justice—say,

Few charities, as the Grand Inquest believe, have higher claims on the public; and few, perhaps, will be more permanently useful than the House of Refuge.

Here the misguided and neglected, rather than guilty child, will find an abode, where religious and moral principles, and industrious habits, will be inculcated—where virtue will be cherished, and vice repressed. When the pupil leaves the institution, it is to be hoped, he will go forth into the world with such a character for honesty and integrity, as may lead the virtuous portion of society to receive him among them. Instead of being a weight on the community, supported either in our jails or alms-houses, he will be enabled to bear his part of the public burthens.

Who would not desire for any child of misfortune, the mild and merciful guardianship of a House of Refuge, its temporary restraints, depending for their duration as well as rigour, altogether upon the conduct and capacity of the individual while in the House, and leaving on their removal, neither the stings of remorse, nor the stains of infamy.

VI. What is the discipline and instruction of the House of Refuge, and who are the proper subjects of it?

1. As to the subjects—they are generally those who are neglected and destitute, orphans, without parents or friends to advise or direct them; and there are not wanting numerous instances in which abandoned parents, for their own gratification, direct their children into the paths of vice, by sending them into the streets to beg or to steal. There is besides, a case of by no means rare occurrence, appealing if possible, still more powerfully to our sympathy—the case of a widowed mother, who sees her son rushing upon destruction, and is unable by any authority she can employ, or by any influence she can exert, to reclaim him from his evil ways, or arrest him in his progress to ruin. Where can she look for assistance or relief? If the power of

the law be interposed, it sends him to jail, where he becomes still more degraded, and is perhaps condemned to deeper contamination. The true judgment of a mother's never-dying affection would readily assent to restraint, if accompanied with care and instruction, and freed from the stigma and the poison of a confinement in prison. But the jail she regards as an extremity so disastrous, that tears and prayers, and every exertion she can employ, are used to avert it, and when at last it comes, it is an overwhelming calamity. Thus is she doomed to witness the downward course, and perhaps the ruin, of her child, without the power to save or to help him.

This is no fancy sketch; nor is it drawn from other countries, or from other times. More than one unhappy and anxious mother has already applied to the managers, and found a new hope in the prospect of a Refuge for her child.

If such be the nature of the law and of our ordinary institutions, and such their inadequacy, or worse than inadequacy, in the case of juvenile delinquents—if the security of society requires, that without regard to their feebleness, their destitution, their inevitable ignorance, they should be treated as criminals, surely it is a noble charity which seeks to devise and to execute a plan for extending to them parental aid, affording them the means of instruction, and leading them into the ways of industry and innocence—which endeavours to rescue them from the effects of their unfortunate condition, ascribing, with equal justice and humanity, their errors, and even their vices and their crimes, to the want of that aid which childhood always requires.

The character of the subjects is also disclosed in the act of incorporation.—

“Sect. 6. And be it further enacted by the authority aforesaid, That the said managers shall at their discretion receive into the said House of Refuge, such children who shall be taken up or committed as vagrants, or upon any criminal charge or duly convicted of criminal offences, as may in the judgment of the court of oyer and terminer, or of the court of quarter sessions of the peace of the county, or of the mayor's court of the city of Philadelphia, or of any alderman or justice of the peace, be deemed proper objects; and the said managers of the House of

Refuge shall have power to place the said children committed to their care during the minority of the said children at such employments, and cause them to be instructed in such branches of useful knowledge as may be suitable to their years and capacities, and they shall have power in their discretion to bind out the said children with their consent as apprentices, during their minority to such persons, and at such places to learn such proper trades and employments as in their judgments will be most conducive to the reformation and amendment, and will tend to the future benefit and advantage of such children. *Provided*, That the charge and power of the said managers upon and over the said children, shall not extend in the case of females beyond the age of eighteen years."

And as to the discipline of the institution it is intended to be constant and firm, while it is kind and affectionate. It consists in the watchful guardianship of friends, not the severe and rigorous exaction of task masters. But it is a part of its theory that it shall be only *temporary*. As it is designed to make its objects useful and respectable in life, it cherishes the hope of putting them in the way to usefulness and respectability at an early period. Experience has shown elsewhere, that habits of industry and good conduct necessarily persevered in for a few months, not in general exceeding *a year*, so withdraw the inclinations from the vices of earlier infancy, and the pursuits that might have been the consequence of them, that there is little danger of a relapse. As soon as this happy effect is clearly manifested, and the elements of school learning, and some knowledge of a trade, have also been communicated, the power to bind out the pupils, *with their consent*, to apprenticeships, is at once exercised. In this the managers have, by law, an authority similar to that of parents over their offspring, and to that of the *Guardians of the Poor*. It differs in being exercised only upon those who have been the victims of crime, in being preceeded by the judgment of a lawful magistrate, as well as their own, and in a course of preparation and discipline, which render the apprentice more fit for his station than he would be, if taken at once from a course of idleness and a state of entire ignorance.

The following is extracted from the Report of a Committee of the Legislature, made on the 24th of March, 1835 :

“ The buildings are substantial, and their arrangements judicious. The inmates present a healthy appearance ; their clothing is comfortable, and their fare is abundant and wholesome. Their labour is suited to their age and capacity—regular, but not severe. Their government, so far as the nature of the case will allow, is parental. They have their regular hours of labour, and instruction : while every attention is paid to induce habits of industry, the greatest possible care is had for their intellectual improvement. The ordinary branches of an English education are better acquired in the House of Refuge than in many of our country schools.

“ These remarks will apply to both the male and female departments. The committee were pleased to witness the great attention paid by the managers in affording the means of moral and religious instruction. Stated periods are set apart for devotional exercise : the duty is performed with proper solemnity, and the most respectful attention is paid by all classes. Ministers of different denominations attend and preach alternately every Sabbath. The day is spent in giving and receiving instructions of the most useful kind ; and these duties appear to be performed by all concerned with pleasure and profit.

“ The number of inmates at present is, of males, one hundred and three, of females, fifty-four. A very great proportion of the children in the House of Refuge are orphans. Of the females, there are nearly three-fourths who have no parents ; and such as have, in most instances derive no advantages from them.

“ To this unfortunate class, the advantages of this institution are peculiarly adapted. Here their vicious tempers and habits are restrained—their minds improved—principles of virtue inculcated ; and not a few, who were in the broad road to ruin, have been rescued from destruction and prepared for usefulness, and are now filling respectable places in society. Some of these instances have come under the special notice of your committee, and are referred to as an evidence to show that the benevolent designs of the founders of this institution have been realized, in

reclaiming youthful offenders from the disgrace and ruin consequent on a confinement in a jail or penitentiary, to which their vicious practices would unavoidably have brought them.

"The committee have seen and conversed with several persons who spent several years in the House of Refuge, who uniformly bear testimony to its usefulness, the ability with which it is conducted, the wholesomeness of its discipline, and who acknowledge themselves indebted to that institution for the respectable station they now hold in society."

An important feature in the character of the House of Refuge, distinguishing it from all systems of penitentiary discipline is, that no pupil is sent thither for a definite period. No boy can be retained after he is 21, and no girl after she is 18. Within these limits the term of each child's residence is to be governed by his capacity, docility and diligence. As soon as he becomes fit for a place, and a suitable place offers, he is indentured. The section of the by-laws on this subject is as follows:—

SECTION IV.

The Indenturing or Apprenticing Committee.

The Board of Managers shall elect by ballot an Indenturing Committee of five members, whose duty it shall be to decide upon all applications from persons who wish to have such children as have become sufficiently reformed, apprenticed to them. The inmates shall be bound only to persons of good moral character, who in the opinion of the Committee will feel a deep interest in the reformation of the children placed under their care.

No inmate shall be apprenticed to a tavern keeper or distiller of spirituous liquors; and girls shall not be apprenticed to unmarried men, or placed in boarding houses or public academies.

No child shall be put to service out of the House of Refuge, unless under regular indentures from the Board of Managers; and none shall be apprenticed to any person or persons residing within the city of Philadelphia, or within twenty miles thereof, unless with the consent of the Executive Committee; and in all cases, preference shall be given to applications from persons who do not reside in towns, but in the most distant parts of the country.

A Bible, and printed paper of advice and instruction relative to his or her future conduct, shall be given to each inmate when apprenticed ; a printed letter shall also be given with the indenture to those under whose control the children are placed, recommending them particularly to their parental care and affection.

No child shall be apprenticed until he or she have resided at least one year in the House, given satisfactory evidence of reformation, and learned to read and write, except in special cases, and then only with the consent of the Executive Committee.

The Committee shall keep regular minutes of their proceedings, which shall be laid before the Board of Managers at each stated meeting.

VII. Danger of abuse.

There is not the slightest danger of a child's becoming an inmate, who might be regarded an unsuitable object. An examination before a court of justice or a magistrate is the first precaution against hasty admission. When an opinion is thus expressed, and committed to writing, and the youth is taken to the House of Refuge, the Managers are to exercise their judgment also, as an option is given to them to accept or refuse delinquents committed by the authority of any magistrate of the city or county. A judgment of thirty-one individuals, performing an office of humanity, without interest and without motive, except of kindness and good will towards the children to be received, it is not likely will be exercised to the end of oppression. But should, at any time, an unadvised admission occur, ample authority remains to correct the error, for the Managers can, and undoubtedly will, discharge a child, and return it to its parents, when, on investigation, it appears not to be a proper object. An occurrence of this nature is barely possible when admission is attended with the guards which have been specified.

The authorities who have power to send children to the House of Refuge, are courts of Justice, or individual civil magistrates. From the first there can be no apprehension. If the latter are supposed to be of doubtful competency, for so serious a trust, still security for their prudence is found in their public character, and immediate responsibility, and in the extreme improbability

of their having any inducement to do wrong. Suppose them, however, to err, by making an irregular commitment. It is subject to the revision of a body of thirty-one men, who have embarked in the duty from disinterested motives, unrewarded except by an approving conscience, unbiased except by the zeal of charity. The danger of their concurring in any improper proceeding on the part of a magistrate is so small, that it can scarcely be made the subject of an estimate. But let them err too—contrary to every imaginable motive—let them connive at an irregular commitment: the case is still as completely within the reach of redress, as it was before the certificate was signed by the magistrate, which consists of nothing more than an opinion, that the party committed, is a proper subject for the House of Refuge.

As a further precaution the Law enacts that it shall be the duty of the President and legal associates of the common pleas of Philadelphia county, the Judges of the district court of the city and county of Philadelphia, and the Recorder of the city of Philadelphia, alternately in such manner as may be arranged between them at a joint meeting for that purpose, from time to time held, to visit the House of Refuge, at least once in two weeks, or oftener if to the said Judges it shall seem requisite, and it shall be the duty of the Judge or Recorder so visiting the House of Refuge, carefully to examine into all the commitments to the said House of Refuge, made by the Aldermen, or Justices aforesaid, that have not previously been adjudged upon by one of the said Judges or the Recorder, in the manner hereinafter directed, which commitments it shall be the duty of the managers of the House of Refuge, truly and correctly to lay before such Judge or Recorder, and on such examination, such Judge or Recorder shall have produced before him by the managers aforesaid, their superintendent or agent, the infant or infants described in such commitment and the testimony upon which he or she shall have been adjudged a fit subject, for the guardianship of said managers or on which he or she shall be claimed, to be held as such and if after examining the infant and such testimony the said Judge or Recorder shall be of opinion, that, according to the laws of this commonwealth regulating the control of in-

fants, a case has been established which in his opinion would according to law authorise, the transfer of the parental authority over such infant, to the managers of the House of Refuge, then and in that case, it shall be the duty of the said Judge or Recorder to endorse an order on the commitment of the Justice or Alderman directing the infant to be continued under the guardianship of the managers of the House of Refuge, after which it shall be lawful for said managers to exercise over all such infants, the powers and authorities given them by the act, to which this is a supplement. But if the said Judge or Recorder shall be of opinion, that such case has not been made out, he shall order such infant to be forthwith discharged, which order shall be obeyed by the managers, under the pains and penalties provided by law against wrongful imprisonment. Provided that it shall be the duty of said Judge or Recorder, at the request of such infant or any person in his behalf, to transfer such hearing to the court house, of the court of which he is a member, in order that the infant may have the benefit of counsel and of compulsory process, to obtain witnesses required in his or her behalf, which such Judge or Recorder is hereby authorised to award as fully and amply as any Judge or court could do on the hearing of a writ of *habeas corpus*. And provided also, That nothing in this act contained, shall be construed to interfere with the provisions of an act, entitled "an act, for the better securing of personal liberty and preventing unlawful imprisonment," passed on the eighteenth day of February, one thousand seven hundred and eighty-five, commonly called the *habeas corpus* act.

This glorious remedy remains, which must always preserve the liberty of the country, and secure to the humblest citizen instant relief from oppression. A *habeas corpus* brings the whole transaction in review before a judge: before any judge, whom the friends of the complaining party may select, or before all the judges of the commonwealth, if it be necessary, in succession, if one shall improvidently refuse redress.

DECISION OF THE SUPREME COURT OF PENNSYLVANIA.

DECEMBER TERM, 1838.

[Ex parte Crouse.—Habeas Corpus.]

PER CURIAM.—The House of Refuge is not a prison but a school; where reformation, and not punishment, is the end. It may indeed be used as a prison for juvenile convicts who would else be committed to a common jail; and in respect to these, the constitutionality of the act which incorporated it, stands clear of controversy. It is only in respect of the application of its discipline to subjects admitted on the order of a court, a magistrate, or the managers of the Almshouse, that a doubt is entertained. The object of the charity is reformation, by training its inmates to industry: by imbuing their minds with principles of morality and religion; by furnishing them with means to earn a living; and, above all, by separating them from the corrupting influence of improper associates. To this end, may not the natural parents, when unequal to the task of education, or unworthy of it, be superseded by the *parens patriæ*, or common guardian of the community? It is to be remembered that the public has a paramount interest in the virtue and knowledge of its members, and that, of strict right, the business of education belongs to it. That parents are ordinarily entrusted with it, is because it can seldom be put into better hands: but where they are incompetent or corrupt, what is there to prevent the public from withdrawing their faculties, held, as they obviously are, at its sufferance? The right of parental control is a natural, but not an unalienable one. It is not excepted by the declaration of rights out of the subjects of ordinary legislation; and it consequently remains subject to the ordinary legislative power, which, if wantonly or inconveniently used, would soon be constitutionally restricted, but the competency of which, as the government is constituted, cannot be doubted. As to abridgement of indefeasible rights by confinement of the person, it is no more than what is borne, to a greater or less extent, in every school; and we know of no natural right to exemption from restraints which conduce to an infant's welfare. Nor is there a doubt of the propriety of their application in the particular instance. The infant has been

snatched from a course which must have ended in confirmed depravity ; and, not only is the restraint of her person lawful, but it would be an act of extreme cruelty to release her from it.

Remanded.

VIII. History and endowments.

On the 7th of February, 1826, it was resolved with great unanimity by a large and respectable meeting of the citizens of Philadelphia, to organize a society for the Reformation of Juvenile delinquents, and on the 23d of March following an Act of incorporation was passed ; thus giving the entire sanction by the Legislative wisdom of Pennsylvania to the plan of benevolence that had been devised.

Subsequent Acts have testified to the continued confidence of the Legislature in the utility of the system and their willingness to sustain it by liberal endowments.

The ground and buildings alone which have been erected with a strict view to economy and permanency have cost over \$84,000 and they are incumbered with a debt of \$27,000. The average annual expenses amount to about \$17,000, of which \$5,000 is paid from the State Treasury, \$9,000 from the County Treasury, and \$3,000 from the labour of the children and from donations. It is obvious that the expenses of such an institution must far exceed the income derived from the labour of the inmates. A prominent part of the system is to prepare the inmate to obtain a subsistence out of the house by teaching him some useful trade. Few persons however are willing to have their work done in shops where the hands are but beginners, and of course entirely inexperienced ; and few descriptions of work can be done at all by such hands, and yet as soon as our pupils become capable of doing good work they are considered in a suitable condition to exchange the labours of the house for employment elsewhere. It would defeat the object of the institution—which is simply reformation and preparation for usefulness,—to retain the inmates after they are prepared for service under indentures.

IX. Known results.

Of 2459 children admitted into the New York House of Refuge, up to January 1840, four fifths were indentured with great

care. It may be enough to inquire, whether it is probable that any considerable number of these children would have been ever indentured, if they had not been rescued from perdition by the House of Refuge, and whether the indenturing of that number of such children is not of itself in every point of view an object of the first importance?

The same examination of the reports of the House of Refuge in Philadelphia, shows that of 1144 inmates who left the house, prior to January 1st, 1840—675 have been carefully indentured and that from three fourths of these, decidedly favourable reports have been officially received.

There are hundreds of cases which are particularly detailed in the appendices to the various reports of these institutions, which shew the benign and powerful influence of this system. These are circumstances which cannot mislead. The evidence is drawn from a variety of sources—from the masters and mistresses of the children in various parts of the country and from neighbours whose knowledge is obtained from personal observation, and general report—and though disappointment is sometimes experienced, and a reformation supposed to be radical, turns out to be superficial, yet on the whole the *known results* of the system abundantly sustain its claims to public confidence.

CONCLUSION.

It should always be remembered in connexion with this whole subject that there is a sort of moral retribution, provided for in the very constitution of society, which visits upon us the just punishment of our neglect or omission of duty towards the ignorant and forsaken. If juvenile delinquency is allowed to pass with impunity, it will soon break forth into outrage and crime of every description, and offences and offenders will multiply without number or end. If on the other hand we check the formation of the early habit, by removing the child from scenes of temptation and guilt—if we put him where restraint and wholesome discipline are connected with personal liberty and enjoyment, and with literary, moral and religious instruction—and then transfer him to the care and training of one of our good and faithful farmers or mechanics, to be taught some use-

ful and profitable art of life; we are sure that the best interests of the community are subserved while the individual himself is saved and blest.

☞ It may not be amiss to mention that a legacy of \$100,000, bequeathed to the House of Refuge by the late Frederick Kohne, Esq., and payable on the decease of his widow, will when received, enable the Managers to pay off the debt of 27,000 dollars. The interest on the balance will go to relieve the burden of expense now attending the annual support of the Institution.

